

BANKRUPTCY APPELLATE PANEL OF THE SIXTH CIRCUIT

In re: HILBURN'S PAINT AND BODY
SHOP, INC.,

Debtor.

ELLEN B. VERGOS,
United States Trustee for Region 8,

Appellant,

v.

HILBURN'S PAINT AND BODY SHOP,
INC., et al.,

Appellees.

No. 01-8026

Filed: October 4, 2001

ORDER

Before: **AUG, MORGENSTERN-CLARREN, and RHODES**, Bankruptcy Appellate
Panel Judges.

J. VINCENT AUG, JR., Bankruptcy Appellate Panel Judge. This is the second appeal presented by the United States Trustee on the issue of whether the Bankruptcy Code permits compensation to a debtor's attorney from the debtor's estate. In a prior opinion, the Panel affirmed the bankruptcy court's interim award of the \$1,250.20 in compensation to the debtor's attorneys. See *United States Trustee v. Hilburn's Paint and Body Shop, Inc. (In re Hilburn's Paint and Body Shop, Inc.)*, 253 B.R. 519 (B.A.P. 6th Cir. 2000). The United States Trustee now appeals the bankruptcy court's final order approving administrative claim and disbursement of funds, which includes final approval and disbursement of \$1,250.20 in compensation to the chapter 7 debtor's attorneys from the bankruptcy estate.

Upon examination of the record and the briefs, the Panel unanimously agrees that oral argument would not significantly aid the decisional process in this appeal, and therefore waives oral argument. FED. R. APP. P. 34(a); FED. R. BANKR. P. 8012.

Under the law of the case doctrine, a court is ordinarily precluded from re-examining an issue previously decided in the same case. *Consolidation Coal Co. v. McMahon*, 77 F.3d 898, 905 n.5 (6th Cir. 1996). Because the Panel's prior decision addressed the same issue presented in this appeal, the law of the case doctrine is applicable to this appeal. See *In re George Worthington Co.*, 921 F.2d 626, 628-29 (6th Cir. 1990) ("The purpose of the doctrine of law of the case is to promote judicial comity, the judicial system's interest in finality, and the efficient administration of cases").

Therefore, for the reasons stated in the Panel's prior decision, the decision of the bankruptcy court in favor of the appellees is **AFFIRMED**.

PAT E. MORGENSTERN-CLARREN, Bankruptcy Appellate Panel Judge, dissenting. I respectfully dissent from the Panel's decision and would reverse the decision of the bankruptcy court for the same reasons stated in my dissent in *Hilburn's Paint and Body Shop, Inc.*, 253 B.R. 519 (BAP 6th Cir. 2000).

ENTERED BY ORDER OF THE PANEL

/s/ Leonard Green

Clerk